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September 14, 1995

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

95-91

Dear Ms. Searcy:

DOCKET FILE COPY ORIGINAL

These comments are filed in response to the Notice of Proposed Rulemaking released June 15, 1995, (NPRM) in the matter of the Establishment of Rules and Policies for the Digital Audio Radio Services in the 2310-2360 MHz. Frequency Band.

The Docket number is: GEN Docket No. 90-357.

Enclosed is an original and nine copies of our comments.

Sincerely,


Charles T. Morgan

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

) GEN Docket No. 90-357
) RN No. 8610

Establishment of Rules and Policies
for the Digital Audio Radio Satellite
Service in the 2310-2360 MHz.
Frequency Band.

95-91

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SEP 18 1995

TO: The Commission

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COMMENTS OF SUSQUEHANNA RADIO CORP.

These comments are filed in response to the Notice of Proposed Rulemaking released June 15, 1995 (NPRM). Susquehanna Radio Corp., with more than 53 years in radio broadcasting, began with a single AM facility and grew as a group owner of AM stations to later expand by adding FM stations. Today, Susquehanna operates five AM and twelve FM stations. Susquehanna looks to the future with a desire to better serve its listeners through the natural evolution to digital audio broadcasting.

Susquehanna recognizes that since the Commission has now allocated spectrum for a satellite-delivered digital audio service (DARS), there is a need to issue a Notice of Proposed Rulemaking in order to best determine how licensees are to be assigned. In addition to seeking comment on the licensing requirements for DARS, the proposed rulemaking raises many questions that go to the heart of the need or advisability of DARS.

Susquehanna would like to reply to the following questions raised in the Notice of Proposed Rulemaking:

Economic Impact on Existing Terrestrial Broadcasters and Impact on the Public Interest.

In this section, the Commission seeks comments on how DARS might affect terrestrial broadcasters and, consequently, affect the interest of the listening public. Susquehanna believes that the authorization of a DARS service will have a detrimental effect, and in some cases a terminal effect, on many smaller AM and FM radio stations. DARS, if implemented, will erode listenership, destroy the financial viability of terrestrial stations, and ultimately curtail their ability to serve the public interest.

We have only to look at history. Docket 80-90 was devised to bring new services to underserved areas and to provide additional programming services to all areas of the United States. In this proceeding, the Commission recognized the potential financial impact on many existing stations but concluded that the public interest would be best served by the addition of new programming sources.

This well-intentioned action has produced, at best, mixed results. Certainly, Docket 80-90 produced more services, but it would appear that most of these new services duplicated formats that existed on previously authorized stations, resulting in few new or alternative programming services. It would appear that the additional public service gains obtained by these new services have been to a great extent offset by the "public interest" losses that are now being experienced by all stations, including those authorized by Docket 80-90, as a result of the overcrowding of the FM band.

Competition within the local radio market for both listeners and dollars is fierce and real. Unfortunately, many stations in medium and small markets, in a hope to become profitable, have had to cut costs. These cuts greatly diminished the station's ability to serve the public interest. Many stations found it necessary to cut or curtail their commitment to local news and community affairs in order to remain on the air. These problems that exist today will be dwarfed by comparison to those that can be expected by the addition of a DARS service.

With DARS, a single entity with up to thirty (30) program services could provide a low-cost alternative that can, in most cases, duplicate programming that already exists in the marketplace. These "Mega-programmers of the Air" could eliminate competition in medium and small markets just as Wal-Mart, with its massive buying power, has destroyed small business in many small markets across the United States.

DARS, like Wal-Mart, could easily destroy the local radio market and force any station that survives this competition to curtail its efforts to serve the public with local news and public affairs programming that can only be provided by local terrestrial radio stations.

Radio is a local medium and the public interest that is served by radio is a local interest and a community need. It is clear that local programming can better serve the public interest than programming provided by any national DARS service.

The Commission seeks comments on "whether any station might offer less local programming or go off the air as a result of competition from satellite DARS service."

Certainly with the addition of DARS, a number of stations that have difficulty existing with today's competition, particularly in small markets, will be forced off the air. Those that remain can be expected to cut public interest services in order to survive.

It is our experience that a local news department is one of the largest expense areas of a local radio station and would probably be the first to be cut. Community affairs, local issues programming mini-series, editorials, fund raisers, and civic involvement on the part of station employees are all far more expensive to produce than "cookie cutter" programming available on a national basis produced without the involvement or knowledge of local public interest requirements.

The Commission raises the question of potential innovative measures that terrestrial stations may take to respond to DARS competition such as implementing digital transmission technologies in their own service.

Susquehanna personnel are very closely involved in the work of the National Radio Systems Committee and its testing and possible development of a standard for an In Band-On Channel digital service. It is our belief that one of the IBOC digital broadcasting systems presently being tested will be selected as a NRSC recommended standard and submitted to the FCC for their consideration sometime in 1996.

The timetable for implementation in the marketplace is not yet clear. Receiver manufacturers are closely following the development of a terrestrial standard as well as the timetable for possible FCC licensing of any DARS service. Susquehanna has a deep concern that any authorizations issued for DARS prior to a terrestrial standard being developed and authorized for use within the existing broadcast service will have a negative effect on the potential marketing of terrestrial IBOC receivers.

This new technology (IBOC) can produce a digital quality signal that will be equal to that provided by DARS. An IBOC standard can offset the main public interest value that will be provided by DARS, digital quality. Implementation of IBOC can accomplish this goal without diminishing the public interest that is presently served by local terrestrial AM and FM stations.

DESIGN OF SERVICE

Susquehanna believes that if and when a satellite DARS service is authorized, it should be authorized as a "Subscription Only" service. The Commission has noted that three of the four applicants propose a non-broadcast/subscription service. A "Subscription Only" service would allow these proponents to serve their subscribing audience with the specialized programming that they feel will justify the financial feasibility of a subscription service.

LICENSING APPROACHES

As noted in the NPRN, the Commission has identified various options for awarding licenses and each of these options raise questions concerning the number of different licensees, amount of spectrum

allocated, and the manner of licensee selection, including the potential of a lottery or auction.

Susquehanna believes that the public interest would be best served by the Commission's third suggested option; that is, re-open the processing window to allow additional applicants to file satellite DARS proposals. This would allow the Commission to determine the method of assigning licenses and if an auction is chosen, the additional applicants should bolster the revenues received for these allocations. Susquehanna supports the concept of providing bidding credits for each of the four applicants to the extent of their investment to date.

LICENSING PROCEDURES

Susquehanna believes that if satellite DARS systems are licensed, the public interest will be best served if transmission standards are adopted. Although it may be not practical or necessary to adopt the same standard for both satellite and terrestrial services, it is extremely important to have compatibility between all satellite service providers. Economies of scale will provide lower cost receivers, which would certainly be in the public interest. Receivers that are tunable over the entire range of the allocated band and suitable for operation with different subscription services will allow the public to switch services without purchasing a new receiver. Digital techniques presently exist that will allow individual receiver addressability, thus insuring that the subscription service providers' rights are protected. A transmission standard could be developed to allow a receiver

manufacturer to accommodate variable data rates to support the various audio formats proposed by the four existing applicants.

TERRESTRIAL GAP FILLERS

Susquehanna believes that prior to receiving any authorization for a satellite DARS service, each applicant should be required to assure the Commission that they will be able to provide acceptable service to the public without the need for any terrestrial gap fillers. Any use of gap fillers would be a direct threat to terrestrial radio services and would have a negative impact on their ability to continue to provide the public interest service that has always been provided by existing radio services.

Gap fillers, like translators or the unlicensed micro-power systems that seem to be popping up across the country, could grow to a point where it would be impossible for the Commission to control their operation or potential alteration of program content.

FINANCIAL QUALIFICATIONS AND MILESTONE REQUIREMENTS

Susquehanna supports the Commission's position that will give licensees only one year to arrange financing and therefore, insure that these limited frequencies do not remain unused. The milestone concept proposed in the NPRM to insure that all licensees begin construction of their satellite within one year, with launch and commencement of operation within four years, is quite reasonable.

AUCTIONS

Susquehanna believes that if these satellite services are to be authorized as a broadcast service, then the public interest would be best served by re-opening a filing window and utilizing the

broadcast cut-off model to insure that the best qualified applicant would be selected to insure that the operation of this new service would be in the best interest of the public.

For non-broadcast services, it appears as if the Auction process used in other services would be applicable. In this case, Susquehanna agrees with the Commission's basic framework and tentative conclusions discussed in Paragraphs 94 through 104.

In summary, Susquehanna recognizes the Commission's desire to develop rules to govern the assignment and use of the spectrum allocated to satellite DARS, but questions the necessity to initiate this service at this time.

Susquehanna believes that the primary public interest gain from such a service is "digital quality" audio which should be available from existing terrestrial services in the near future.

Susquehanna's long history of serving its listeners with quality entertainment, coupled with a deep commitment to local news and civic involvement, intensifies our belief that radio can best serve the public interest through local radio stations who know their local markets and provide programming to respond to the needs of these local communities. A satellite DARS service can destroy local radio's ability to serve the public interest and we urge the

Commission to make this a prime consideration as it develops its proposed rules for satellite DARS.

Respectfully submitted,

SUSQUEHANNA RADIO CORP.



David E. Kennedy, President



Charles T. Morgan
Senior Vice President

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